



# FACILITY COMPLIANCE AUDIT REPORT

## Division of Waste Management Solid Waste Section

### UNIT TYPE: Structural Fill/CCB

Structural Fill	<b>X</b>		Active		Certified Closure	<b>N</b>						<b>COUNTY:</b> IREDELL <b>PERMIT NO.:</b> CCB0052 <b>FILE TYPE:</b> COMPLIANCE
Permitted Site Y/N	<b>N</b>		Inactive									
Notified Site Y/N	<b>Y</b>		Recorded Y/N	<b>N</b>								

**Date of Audit:** December 23, 2009

**Date of Last Audit:** N/A

**FACILITY NAME AND ADDRESS:**

Port Village  
507 River Hwy, Mooresville, NC, near I-77 Intersection

**GPS COORDINATES:** N: 35.593063 W: 80.865287

**CURRENT PROPERTY OWNER:**

Lowes Home Center Inc.  
PO Box 1000  
Mooresville, NC 28115

**FACILITY CONTACT ADDRESS:**

Corporation Service Company, Registered Agent  
Lowes Home Centers, Inc.  
327 Hillsborough Street  
Raleigh, North Carolina 27603

**WASTE GENERATOR/SOURCE:**

Duke Power Company

**AUDIT PARTICIPANTS:**

Charles Gerstell-NCDENR, Solid Waste Section  
Bill Wagner-NCDENR, Solid Waste Section

**STATUS OF NOTIFICATION/SITE:**

Inactive

**PURPOSE OF AUDIT:**

Comprehensive

**NOTICE OF VIOLATION(S):**

**15A North Carolina Administrative Code 13B .1706(d) states:** The constructor or operator shall submit a certification to the Division signed and sealed by a registered professional engineer or signed by the Secretary of the Department of Transportation or his designee certifying that all requirements in the Rules of this Section have been met. The report shall be submitted within 30 days of application of the final cover.

A certification was never submitted to the Division for this structural fill facility. Therefore, Lowes Home Centers, Inc. is in violation of 15A NCAC 13B .1706(d).

To achieve compliance, Lowes Home Centers, Inc. must submit a certification to the Division signed and sealed by a registered professional engineer within **60** days of receipt of this audit report with Notice of Violation(s).

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**15A North Carolina Administrative Code 13B .1707 (a) states:** The owners of land where coal combustion by-products have been utilized in volumes of more than 1,000 cubic yards shall file a statement of the volume and locations of the coal combustion by-products with the Register of Deeds in the county or counties where the property is located. The statement shall identify the parcel of land according to the complete legal description on the recorded deed, either by metes and bounds, or by reference to a recorded plat map. The statement shall be signed and acknowledged by the landowner(s) in the form prescribed by G.S. 47-38 through 47-43.

**15A North Carolina Administrative Code 13B .1707(b) states:** Recordation shall be required within 90 days after completion of coal combustion by-product fill project

**15A North Carolina Administrative Code 13B .1707(c) states:** The Register of Deeds in accordance with G.S. 161-14 shall record the notarized statement and index it in the Grantor Index under the name of the owner(s) of the land. The original notarized statement with the Register's seal and the date, book and page number of recording shall be returned to the Division after recording.

Lowes Home Centers, Inc. is in violation of 15A NCAC 13B .1707(a) through .1707(c) in that the structural fill facility was never recorded on the deed for the property.

To achieve compliance, within **60** days of receipt of this audit report with Notice of Violation(s), Lowes Home Centers, Inc. must file a statement of the volume and locations of the coal combustion by-products with the Register of Deeds in the county where the property is located. The statement shall identify the parcel of land according to the complete legal description on the recorded deed, either by metes and bounds, or by reference to a recorded plat map. The statement shall be signed and acknowledged by the landowner(s) in the form prescribed by G.S. 47-38 through 47-43.

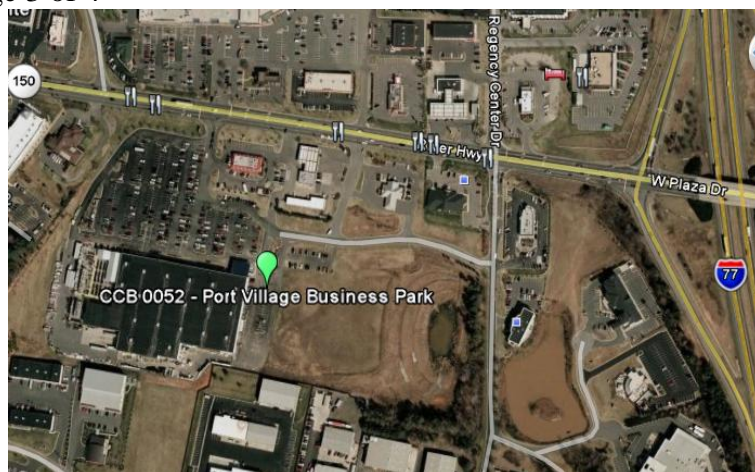
You are hereby advised that, pursuant to N.C.G.S. 130A-22, an administrative penalty of up to \$15,000 per day may be assessed for each violation of the Solid Waste Statute or Regulations. For the violation(s) noted here, you may be subject to enforcement actions including penalties, injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules.

**AREAS OF CONCERN AND COMMENTS:**

1. Historical Information
  - a. Estimated Fill Volume = 500,000 cubic yards
  - b. Proposed End Use:
  - c. Facility Information: Note in file indicated Duke requested property owner to comply with notification requirements.
2. Location Description/Directions

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Google Earth 12/17/09

3. Current Use: A Lowe's has been located on the property with associated asphalt parking.

4. Waste Limit Siting Requirements:

Requirements	Comments
50 feet from surface water	Unable to determine. This information must be provided with certification.
2-feet above seasonal groundwater	Unable to determine. This information must be provided with certification.
100 feet from drinking water sources	Unable to determine surrounding drinking water sources. This information must be provided with certification.
w/in 100 year flood plain	Site is not located within a 100-year floodplain.
25 feet from property line	Unable to verify property boundaries in field. This information must be provided with certification.

5. Discussion of Closure Requirements:

Requirements	Comments
Minimize erosion of cover materials/cap	Site has been stabilized with vegetation, asphalt and structures.
Minimize infiltration and ponding	No ponding was observed.
Other erosion control measures	Site is inactive. No longer applicable.
No migration of CCB off-site	No migration of CCB was observed.

6. Construction, Design, and Operation Requirements:

Requirements	Comments
Discharge to surface water	No discharge of CCB to surface waters was observed.
Surface water diversion from active fill areas	Site is no longer active. No longer applicable.
Dust control measures	Site is no longer active. No longer applicable.
18" soil cover on inactive fill areas	Unable to determine. This information must be provided with certification.
Maximum slope 3:1	Majority of property has been graded to match elevation of surrounding areas. Unable to determine limits of CCB.

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7. Final comments/photos:

- a. Site is no longer active and has been developed with a Lowe's and associated asphalt parking.
- b. Iredell County Property Data indicates that a stream exists on the property which has apparently been altered. Documentation verifying approval of stream disturbance must be submitted to the Division within **60** days.
- c. Please ensure that certification to be submitted to the Division verifies compliance with all the rules pertaining to Section .1700 of North Carolina Administrative Code 13B.

Please contact me if you have any questions or concerns regarding this audit report.



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Charles T. Gerstell  
Environmental Senior Specialist  
*Regional Representative*

Phone: (704) 235-2144.

Delivered on : <u>1/8/10</u> by		Hand delivery		US Mail	<b>X</b>	Certified No. [ <u>7008 1140 0002</u> <u>2716 4849</u> ]
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cc: Mark Poindexter, Field Operations Branch Supervisor  
Deb Aja, Western District Supervisor